

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	23-MJ-05115-JGD
FRANCISCO SEVERO TORRES,	)	
	)	
Defendant	)	

**PARTIES' STATUS REPORT RE: ORDER OF  
COMMITMENT FOR COMPETENCY EVALUATION**

Pursuant to this Court's direction, counsel for the parties conferred regarding the Government's Proposed Order of Commitment for Competency Evaluation. The parties at the hearing agreed to the changes the defense requested to paragraph 1 and agreed to the removal of paragraph 3, and the Government has made those changes to the Proposed Order. Counsel were not able to narrow their dispute regarding paragraph 5, so that paragraph (now numbered paragraph 4, after the removal of paragraph 3) remains unchanged in the Government's Proposed Order, and the defendant maintains his objection to it. The Government's revised Proposed Order is attached.

The defendant maintains all objections previously stated. In addition, the defendant requests that the order specify that the evaluation is to be done at FMC-Devens. In support thereof, the defendant notes that 18 U.S.C. § 4247(b) states: "Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court." In this case, the closest suitable facility is FMC-Devens. The Revised Proposed Order does not include this language. The defense requests that it be added. The government believes that part of what makes a facility "suitable" is how promptly it is able to complete the evaluation and believes that the BOP should be free to designate the facility that can complete the

evaluation in the most efficient, thorough, and reliable manner at this time, which may or may not be FMC-Devens.

Respectfully submitted,

FRANCISCO SEVERO TORRES	UNITED STATES OF AMERICA,
By his attorney,	By its attorney,
	RACHAEL S. ROLLINS United States Attorney
<u>/s/ Joshua R. Hanye</u>	<u>/s/ Elianna J. Nuzum</u>
Joshua R. Hanye Assistant Federal Defender Federal Public Defender Office 51 Sleeper Street, 5 <sup>th</sup> Floor Boston, MA 02210 joshua_hanye@fd.org 617.223.8061	Elianna J. Nuzum Assistant United States Attorney John Joseph Moakley U.S. Courthouse One Courthouse Way, Suite 9200 Boston, MA 02210 elianna.nuzum@usdoj.gov 617.748.3100

Dated: March 9, 2023

### **CERTIFICATE OF SERVICE**

Undersigned counsel certifies that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Elianna J. Nuzum  
Elianna J. Nuzum  
Assistant United States Attorney

Dated: March 9, 2023